

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**

Author: Skinner Analyst: Janet Jennings Bill Number: AB 318
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 9, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Tax Credits/Information Reporting/FTB Compile Information Received & Submit To State Chief Information Officer For Publication On The Reporting Transparency In Government Internet Web Site

SUMMARY

This bill would require the Franchise Tax Board (FTB) to: (1) annually compile tax expenditure information claimed on tax returns of publicly-traded companies and (2) submit this information to the California Technology Agency (CTA).

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to increase public awareness of the amount and scope of tax expenditures for businesses in this state.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2012, and would be specifically operative for credits claimed on income tax returns beginning with the 2011 taxable year, with the report due to the CTA beginning June 30, 2013, and each June 30 thereafter.

POSITION

Pending.

ANALYSIS**FEDERAL/STATE LAW**

Existing state and federal laws provide various tax credits designed to give tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g. research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Selvi Stanislaus

03/15/11

THIS BILL

This bill would require the FTB to compile claimed tax expenditures from income tax returns of publicly traded companies, under the Corporation Tax Law, for each taxable year beginning with the 2011 taxable year.

This bill would define a publicly traded company as a company with securities that are either of the following:

- Listed or admitted to trading on a national or foreign exchange, or
- The subject of two-way quotations, such as both bid and ask prices that are regularly published by one or more broker-dealers in the National Daily Quotation Service or a similar service.

This bill would define tax expenditure as a credit against the corporation tax imposed under Part 11 (commencing with Section 23001).

This bill would require the FTB to report the compiled information from returns with taxable years beginning on or after January 1, 2011, and submit that information to the CTA, by June 30, 2013, and then by June 30 of each year thereafter. The CTA would be required to develop and publish a database searchable by company name and the amount of tax expenditures claimed on the Reporting Transparency in Government Internet Web site.

TECHNICAL CONSIDERATION

The department has identified the following technical concern. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

On page 2, line 13, delete "asked" and insert "ask" to correct the term "bid and ask prices."

LEGISLATIVE HISTORY

AB 2666 (Skinner, 2009/2010) would have provided the same requirements as this bill. Governor Schwarzenegger vetoed AB 2666. (See Appendix A for the complete veto message.)

SBX 6 19 (Florez, 2009/2010) would have required corporate tax credits of \$20,000 or more to be reported on the Reporting Transparency in Government Internet Web site. This bill failed passage out of the Senate Appropriations Committee.

SB 1086 (Florez, 2009/2010) would have required corporate tax credits of \$1,000 or more to be reported on the Reporting Transparency in Government Internet Web site. This bill failed passage out of the Senate Committee on Revenue and Taxation Committee.

FISCAL IMPACT

Staff estimates a one-time cost of approximately \$111,000 in fiscal year 2010/2011 to develop, program, and test system changes in order to produce the report that would be required by this bill and ongoing costs of \$46,000. The FTB could be required to reimburse the CTA for the costs related to this bill; based on the Senate Appropriation Committee's Fiscal Analysis for AB 2666 (Skinner, 2009/2010), reimbursement could have added \$77,000 in fiscal year 2010/2011 and additional ongoing costs of \$15,000.

Due to the current fiscal environment and the need for increased resources necessary to implement other pending bills, implementation of this bill would be contingent on funding. If this bill is enacted without appropriation language, the department will pursue a budget augmentation ("legislative budget change proposal") through the normal budgetary processes, which could delay implementation of the bill's provisions. If approval of a legislative budget change proposal is denied, the department may be unable to implement the provisions of this bill.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

POLICY CONCERNS

This bill would require the FTB to disclose tax expenditure information regarding certain specific taxpayers. The FTB currently publishes an annual Tax Expenditure Report, which generally describes tax expenditures currently enumerated in the California Corporation Tax Law and the California Personal Income Tax Law, but does not identify amounts claimed by specific taxpayers. The report discusses the concept of tax expenditures and covers many definitional and policy issues.

California has a self-assessed tax system that relies on the responsiveness of the individual and corporate taxpayer to report the proper amount of tax. A self-assessed tax system works in part because the taxpayer has confidence that the information reported to the government will be confidential and used only for the specified purpose. If tax information is used or disclosed for other than the specified purpose, the effectiveness of the state's self-assessed tax system may be impacted.

LEGISLATIVE STAFF CONTACT

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Appendix A

BILL NUMBER: AB 2666
VETOED DATE: 09/29/2010

To the Members of the California State Assembly:

I am returning Assembly Bill 2666 without my signature. My Administration has consistently supported efforts for greater transparency in government, including the "Reporting Transparency in Government" website. However, this bill inappropriately seeks to publish confidential tax information for no apparent benefit. The Franchise Tax Board and the Department of Finance already publish annual reports detailing all tax expenditures, their cost, their intended benefit and other useful information. The Franchise Tax Board also publishes an annual well-known list that identifies the largest 250 tax delinquencies of individual and business taxpayers. I am unclear as to the need for this bill, other than for the sponsor to continue to provoke and alienate businesses attempting to create jobs and economic recovery in California.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger